

Call to Order:

The meeting was called to order at 7:31 p.m. Present were Chair, Joan Duff, members Vincent Chiozzi, Jay Doherty, Eric Macaux (arrived at 7:47 PM), Lelani Loder, and associate member Zach Bergeron; also present were Paul Materazzo, Director of Planning and Jacki Byerley, Town Planner.

276 North Main Street – The Barn @ Arden:

Ms. Duff opened the public meeting on an application by Sasha Associates Trust for a Site Plan Review for a new 9,524 s.f. barn located at 276 North Main Street to be used as office and storage space. Ms. Byerley informed the Board that this proposed building will be named The Barn at Arden and the applicants are the trustees for the Wood Estate. This building will be used as office space for their accountants. The applicants have been granted a Use Special Permit from the Zoning Board of Appeals for office space in the SRB zone. The applicants were required to file for a Site Plan Review with the Planning Board due to the size of the building. An Interdepartmental Review was held and it yielded no additional comments. The site calls for 6 parking spaces to be provided and the applicant can provide 2 parking spaces on-site with the remainder of the spaces being provided on the driveway.

Mr. Doherty asked if the site would be used for offices and storage. Ms. Byerley answered that it will be office space for the accountants of the Wood Estate Trustees, and also used for minor storage and warehousing of ordinary things. Ms. Loder noted that the plans call for only 1,736 s.f. of the building to be heated and used by office employees. Tom Childs representing Sasha Associates Trust and Rosalyn Wood added that there is no commercial intent for the building; it will be private offices only.

On a motion by Ms. Loder, seconded by Mr. Doherty, the Board moved to close the public meeting for Site Plan Review at 276 North Main Street, The Barn @ Arden. **Vote:** Unanimous (4-0).

On a motion by Ms. Loder, seconded by Mr. Doherty, the Board moved to approve the Site Plan to construct a 9,524 s.f. barn for use by the Sasha Associates Trust as shown on the plan titled Proposed Site Development Plan of Land prepared by Merrimack Engineering Services dated April 19, 2013. **Vote:** Unanimous (4-0).

Minutes:

On a motion by Mr. Loder seconded by Mr. Bergeron the Board moved to accept the minutes of February 12, 2013, February 26, 2013, March 12, 2013, March 27, 2013, April 9, 2013 and April 23, 2013 as submitted. **Vote:** Unanimous (5-0).

Trinity Court:

Ms. Duff opened the public hearings that were continued from the April 23rd meeting on an application by Andover Greenwood LLC for a Modification of a Definitive Subdivision, Modification of a Special Permit for Earth Movement, Modification of a Special Permit for Disturbance of Slopes in Excess of 35% and Modification of a Special Permit Watershed Protection Overlay District for Trinity Court.

Trinity Court (cont'd):

Ms. Byerley reviewed the items that were left open from the Interdepartmental Review and the prior Planning Board Meeting. The Fire Department has found the placement of the two hydrants to be acceptable and the Police Department has verified the sight distance on Greenwood Road is over the 200 ft required by the Subdivision Rules and Regulations. The DPW has confirmed that the drainage and all other items on the plan are acceptable. The Water Superintendent has requested additional changes to the water line which the applicant has made, and that plan will be going out for approval. The Health Department has issued a memo confirming all of their concerns have been met regarding the force main. The Planning Division's requests have been met which were to: add the 75 ft sight distance triangle to the plan, remove the decorative sign from the plan, loom and seed the center island of the cul-de-sac, add a 1 inch overlay detail to the plans over the Greenwood Road Utility work, add the utility easement Book and Page to the plan, remove the sloped granite curbing from the plan, list the street trees in a note on the plan and update Sheets 4 and 6 to include the revegetated area that will be a MassDOT slope seed mixture. The applicant has also received an insignificant change from the Conservation Commission.

Jason Panos of Kopelman and Paige, representing the applicant, informed the Board that this modification is to allow them to reword Condition 37 regarding the Lot 4 line plantings and remove Condition 38 regarding the roadwork on Greenwood Road from the approval. Based on comments received at the IDR they are asking for a waiver from sidewalk construction because there are no sidewalks to connect to on Greenwood Road. They are also asking for a waiver of the water main loop per a request from the water department. Mr. Panos addressed the lot line dispute and maintained it is a private matter and should have no impact on the Board's decision.

Fred Ford of Cammett Engineering reviewed the plan revisions based on comments received from DPW at the IDR. The drainage system has been changed to be more in line with the original Vraj Circle plan. This brings the catchbasins back to the beginning of the cul-de-sac. A drainage structure has been moved into the gutter line of Greenwood Road to help prevent icing across the frontage. The sewer easement has been extended outside the subdivision for the force main of Lot 1 which ties into the existing easement running out to June Street. The sewer force main has been moved out of the private way and on to private property. The hydrant has been moved over to the center of the end of the cul-de-sac. All plantings and drainage areas are on the subdivision property and out of the disputed land area. Ms. Byerley added that the applicant has put a concrete pad at the beginning on the road for children to wait for the bus in lieu of sidewalks. She also pointed out that the plan shown has the disputed property lines on it.

Scott Schneider of 171 Greenwood Road asked what the distance and grade were between his property and the catch basin in Greenwood Road. He said he was concerned about runoff and about this drain clogging. Mr. Ford stated that the elevation at the Schneider property line is 173.0 ft and the elevation at the culvert inlet is 171.8 ft. The drain is a little over a foot lower than the Schneider property. Mr. Schneider questioned if there is enough supporting surface area for water absorption should it be required. Mr. Ford answered that the catch basins need to be properly maintained for water not to encroach on his property. Mr. Panos explained that the Homeowners Association will be responsible for maintaining the sewer and drainage areas, and an HOA must be in place before the issuance of the first building permit. Mr. Schneider then

Trinity Court (cont'd):

asked what his recourse would be if the systems are not properly maintained. Mr. Panos stated that it would be a private matter between him and the HOA, however if the systems are not maintained properly, all of the houses in the subdivision would feel the effects. Mr. Chiozzi explained that the HOA is required to deposit an amount of money with the Town for the maintenance and repair of the drainage systems, and every year that fund is replenished with the HOA dues. If repairs are not done, the Town has access to that money to make the repairs. Mr. Schneider asked if it is a bond. Ms. Byerley explained that a bond is put on the construction, not on the HOA. The HOA money is meant for repairs, annual inspections and cleaning. Mr. Schneider then asked who is responsible for the maintenance until the HOA is established. Ms. Byerley answered that the developer is responsible until the time that the HOA money has to be put in place and the HOA ownership is transferred to the lot owners.

Navin Patel, the previous applicant for this subdivision requested the Board review the easement that was granted to his corporation The Prime Group by Harold Wright. He would also like the Town Counsel to review the easement that the Wright's son granted the current applicant for any conflicts to the title. In his opinion the plan needs to reflect changes that were made to the wetlands laws in 2008 and should be reviewed by the Town's consultant.

Ms. Byerley stated that the applicant's attorney can speak to the private easement. The applicant is only required to show their easement to do the work. The applicant's engineer has verified for the DPW that the drainage keeps with the previously approved plan. Mr. Chiozzi asked if Conservation has taken any action and Ms. Byerley informed him that they have reviewed the plan and approved it as an insignificant change.

Mr. Panos informed the Board that he has provided copies of all of the easements on the property. He explained that Greenwood Meadow Homeowner's Association granted an easement to the Wrights for a sewer tie-in. That easement was modified to give The Prime Group a nonexclusive easement to allow the four lots to tie into the sewer. A second modification of the easement was granted by the Wright's children, the current property owners, to Andover Greenwood LLC and all of its successors and assigns which also adds a 5th sewer tie in. Andover Greenwood LLC also has a nonexclusive easement. The initial modification granted to The Prime Group does not benefit any parcel of land, only a corporation. Ms. Byerley clarified that Andover Greenwood LLC did not take over The Prime Group's easement. Andover Greenwood LLC has a separate easement over the property along with the Wrights to tie in to the sewer. Ms. Byerley asked Mr. Panos if the easement of Andover Greenwood LLC has taken away any of the rights granted to The Prime Group in their easement. Mr. Panos answered that it has not. Ms. Byerley asked if the Book and Page of their recorded easement is what was put on the plan and Mr. Panos answered it was Sewer Easement Reference No. 3 on Sheet 3. Mr. Patel stated that he would like Town Counsel to review the titles and the easements. Ms. Byerley informed him that Town Counsel does not do title searches. Mr. Panos added that a title search on any easement would be a private matter.

Sherri Schneider of 171 Greenwood Road asked if this is approved, if their recourse would be to bring it before the Board of Appeals. Ms. Byerley informed her that any appeal would go through the court system.

Trinity Court (cont'd):

On a motion by Mr. Macaux seconded by Mr. Doherty, the Board moved to continue the four public hearings for modifications to Trinity Court to June 11th at 7:45 p.m. **Vote:** Unanimous (5-0).

Pine Forest Park HOA:

Ms. Byerley explained that Pine Forest Park is a subdivision that was approved in 2011. The complete parcel of land is located in Andover, but the access is through the Town of North Reading. The approval was a cooperative effort between the developer, Andover and North Reading to gain access to the site. One item that was brought up during the public hearings was a concern over the response time of the Andover Police and Fire to be able to get to the subdivision in an emergency. An electronic emergency access gate was proposed off of Route 125 completely within North Reading. The developer, Angelo Petrosino was able to obtain a permit from MassDOT to construct that emergency access. The Board also requested that the applicant secure an intermunicipal agreement between Andover and North Reading to supply water service. That agreement has been signed by representative of both Towns and will be recorded shortly. Condition No. 23 of the approval states that a Homeowner's Association must be established prior to any construction activity taking place. Andover HOA's are responsible for maintaining their stormwater system and submitting annual inspection reports. This particular HOA will also be responsible for snowplowing of the private road, trash pickup and maintenance of the water line. Ms. Byerley called the Board's attention to the redlined revisions to the HOA document that they were given by the applicant's attorney, Walter Jacobs, which clarifies who will maintain the emergency access gate in North Reading. Ms. Byerley informed the Board that North Reading DPW Director and Town Administrator have submitted a list of 13 items that they would like in place before the Board approves the HOA.

Ms. Byerley informed the Board that North Reading requested that construction vehicles not use their local roads. Mr. Petrosino was granted a permit by MassDOT to construct a temporary construction access between lots 2 and 3 onto Route 125. North Reading wants this access to be used for the home construction. Mr. Petrosino states it is only to be used for construction of the roadway and utilities. MassDOT's permit states that the access is temporary and for site construction. The Board needs to define what site construction is or ask MassDOT to define it. The Board agreed that MassDOT should define site construction because it is their road. Mr. Chiozzi asked if there was a requirement for a police detail in the agreement. Ms. Byerley answered that the approval from MassDOT calls for a police detail and for a right turn only exit from the site onto Route 125. There are restrictions if construction does not begin within one year. Ms. Loder asked what the recourse would have been if the temporary access had not been granted by MassDOT. Ms. Byerley replied that they would have had to place a bond with North Reading for the roadway.

Mr. Petrosino's attorney, Walter Jacobs, stated that site construction is limited to the infrastructure of the subdivision. Mr. Chiozzi asked is that is what was discussed during negotiations with MassDOT. Mr. Jacobs answered that MassDOT did not define it, but the understanding when the application was made was that it would be for construction of the infrastructure. MassDOT made it clear that it was very limited and that it would be for a limited

Pine Forest Park HOA (cont'd):

duration. Mr. Macaux stated that this dispute is between North Reading and Mr. Petrosino. They should have MassDOT settle it for them, not the Town of Andover.

Ms. Byerley reviewed a list of requests from North Reading officials. They are asking the Board not to approve the HOA until Mr. Petrosino agrees to provide these items. Ms. Duff stated that Luke Roy, the applicant's engineer has indicated that they are willing to provide some of the listed items. Mr. Roy stated that they have the keys to the gate, the O&M manual and the warranties and can turn them over to North Reading DPW. They are willing to add a reflective coating to the emergency gate. There are three additional items in which they are in disagreement.

Ms. Byerley informed the Board that they can choose to accept the HOA so that construction can begin, but continue to work with North Reading on these items, or they can hold off until all of the items are addressed. Mr. Chiozzi asked if they need to resolve the temporary construction access before they accept the HOA. The Board discussed if Andover should be involved in the temporary access issue. The use of the temporary access does not need to be resolved until homes are ready to be constructed.

The Board discussed what recourse North Reading has with Mr. Petrosino if starts using the roads. Ms. Byerley stated that North Reading could request a bond for the roadway. They already have a separate bond for the wear and tear on their roadways through improvements of Flash Road during their subdivision approval process. Mr. Chiozzi asked if there is a subdivision approval in North Reading with conditions to be enforced if anything is out of compliance. Mr. Roy answered that there was an approval with conditions as well as a settlement agreement.

Ms. Byerley explained that the HOA documents outline that the HOA is responsible for the cost of any repairs to the emergency access and North Reading is responsible for making repairs per the MassDOT permit. The settlement agreement between Mr. Petrosino and North Reading also calls out this language under Settlement Terms 2d. Town Counsel is waiting to hear the Board's opinion before he approves the language.

Mr. Doherty asked if this was for the emergency access that will be used by the residents of North Reading. When he was told that it was, he questioned why that Homeowner's Association should be responsible for paying for it. Mr. Doherty asked Carmine Petrosino, representing his father Angelo Petrosino, if they had agreed to that language. Mr. Petrosino stated that they have paid for the gate and the construction of the roadway. He stated that they have bent over backwards for something that will benefit at least 200 homes in North Reading, and they feel that some of the extra items North Reading is asking for are unnecessary.

Mr. Macaux asked what the HOA document would be used for in regards to the ongoing negotiations between Mr. Petrosino and North Reading. Mr. Jacobs answered that once the HOA is approved it will be filed they will begin construction. Ms. Byerley reiterated that she had received a request from the DPW Director of North Reading, asking that the Board not accept the HOA until Mr. Petrosino agree to these items. She needs to know if the Board

Pine Forest Park HOA (cont'd):

approves the HOA as redlined or if they want to hold off on acceptance until the outstanding items are addressed. If the Board accepts the HOA, Mr. Petrosino can still work with North Reading on the items of dispute. Ms. Loder noted that this is a separate additional request from North Reading and it really doesn't have anything to do with the HOA.

Ms. Byerley informed the Board that the emergency gate is working and has been checked by the Andover Fire Department and Police Department. The gate is currently on solar power, but the applicant has given North Reading a bond for permanent power.

Mr. Chiozzi stated that the items North Reading is requesting are not connected to the HOA. There may be valid reasons why these things are needed, but the Board has not been given an explanation for each item. Ms. Loder asked if they could focus on the HOA now and deal with the other items at a later date. Ms. Byerley stated that these items can also be resolved before lots are released for home construction. Mr. Macaux questioned how they could go through each item requested when there is no representative here from North Reading.

Mr. Jacobs stated that North Reading keeps changing their conditions and they are being less than reasonable. The HOA wanted to be responsible for the maintenance and repair of the gate, but North Reading insisted on maintaining it. Now they are requesting numerous items for that maintenance. MassDOT can pull back the temporary access permit at any time and then they will be forced to use North Reading roads.

Mr. Chiozzi stated that from a Town standpoint, another Town has made a request and that Town should be given a chance to explain themselves. Ms. Byerley informed the Board that she did let the representatives of North Reading know that this was on tonight's agenda. She also informed the Board that one member of the North Reading Board of Selectmen attended a pre-construction meeting held last week. Mr. Macaux stated that he would be interested in hearing from North Reading on how these requests are related to the HOA. Ms. Loder questioned why all of these requested items did not come up before the plan was approved. She stated that the Board's responsibility is only to the HOA document and she doesn't see the connection between the two. The Board discussed the dates that North Reading made these requests and the fact that they were very recent. Mr. Roy noted that the DPW Director was invited to the preconstruction meeting but he did not attend.

On a motion by Mr. Doherty seconded by Ms. Loder, the Board moved to accept the Pine Forest Park Homeowner's Association document with a revision to Section 4.C.3 to delete the repeated "shall be", with final approval from Town Counsel. **Vote:** 3-2-0 with Ms. Duff, Mr. Doherty and Ms. Loder voting for the acceptance and Mr. Chiozzi and Mr. Macaux voting against the acceptance.

Other Business:

Mr. Materazzo recapped Planning's articles at this year's Town Meeting. The Town rezoned 680 acres of land with the ID2 zoning amendment passing. He informed the Board that Melmark New England has an option on the Franciscan property and is reaching out to senior living developers. He informed the Board that looking forward to 2014 the Board should look into

Other Business (cont'd):

small housekeeping items in the Zoning Bylaw. The Town will also need to look into medical marijuana and whether they consider a moratorium or develop locations for it such as adult use.

Adjournment: The meeting was adjourned at 9:17 p.m.